

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

FILED

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

PEOPLES' STATE BANK OF  
COMMERCE, f/k/a First State  
Bank of Childersburg, et al.,

Plaintiffs,

v.

LAW LAMAR, IV, et al.,


Defendants.

CIVIL ACTION NO.  
03-AR-1925-S

ENTERED  
AUG 19 2003

MEMORANDUM OPINION

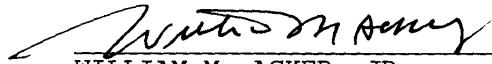
During the status and scheduling conference held on this date in the above-entitled matter, defendant, Law Lamar, IV ("Lamar"), filed an oral motion to remand the case, which had been removed to this court by plaintiff, Small Business Administration, from the Circuit Court of Jefferson County, Alabama. Although the court agrees with Lamar that there are procedural defects in the removal, the court necessarily looks carefully at its subject matter jurisdiction, with or without a motion to remand. Small Business Administration invokes 28 U.S.C. § 1441 as the vehicle for the removal, although 28 U.S.C. § 1442 may be the statute upon which it intended to rely. In either case, the right of the United States, and its agencies, to invoke this court's jurisdiction upon removal, is limited to cases in which it is a **defendant**. In this case, when the state court judge ruled that Small Business Administration is an indispensable party, she quite properly designated it as a party **plaintiff**. As such, Small Business Administration had no right to



remove. This court cannot obtain jurisdiction at the insistence of a removing **plaintiff**. The court need not discuss the several procedural shortcomings in the removal.

A separate order of remand will be entered.

DONE this 19<sup>th</sup> day of August, 2003.

  
WILLIAM M. ACKER, JR.  
UNITED STATES DISTRICT JUDGE